

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,	:	Case No. 3:09-cr-165
Plaintiff,	:	<i>See also</i> 3:99-cr-78, 3:00-cr-78,
v.	:	3:16-cv-69, 3:20-cv-285, 3:20-cv-286
MICKY FUGATE,	:	JUDGE WALTER H. RICE
Defendant.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #128);
OVERRULING WITH PREJUDICE MOTION TO VACATE UNDER 28
U.S.C. § 2255 (DOC. #127); DENYING CERTIFICATE OF
APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*;
JUDGMENT TO ENTER IN FAVOR OF PLAINTIFF AND AGAINST
DEFENDANT; CASE TO REMAIN TERMINATED ON DOCKET

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz in his Report and Recommendations, Doc. #128, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety. Although the parties were notified of their right to file Objections to the Report and Recommendations, and of the consequences of failing to do so, no Objections were filed within the time allotted.¹

¹ Defendant requested and was granted an additional fourteen days, until August 3, 2020, to file Objections. However, none was filed.


For the reasons explained by Magistrate Judge Merz, the Court OVERRULES WITH PREJUDICE Defendant's Motion to Vacate Under 28 U.S.C. § 2255, Doc. #127.

Given that Defendant has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be objectively frivolous, Defendant is denied a certificate of appealability and leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Plaintiff and against Defendant.

The above-captioned case, along with cases 3:99-cr-78, 3:00-cr-78, and 3:16-cv-69, shall remain terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton. Case numbers 3:20-cv-285 and 3:20-cv-286 shall be terminated.

Date: September 8, 2020

 (tp - per Judge Rice authorization after his review)

WALTER H. RICE
UNITED STATES DISTRICT JUDGE